

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1056 - HB 1459

March 17, 2023

SUMMARY OF BILL AS AMENDED (004553): Requires a warden or chief administrative officer employed by a penal institution, or the warden or administrative officer's designee, to report if one of 10 outlined offenses occurs within a penal institution to the District Attorney General for the judicial district in which the penal institution is located within five business days of becoming aware of the offense being committed. Creates a Class A misdemeanor offense for failure to report.

Authorizes a court order a defendant to serve multiple sentences consecutively if a defendant was incarcerated at the time of the offense and is convicted of one of 10 outlined offenses.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 40-35-115, a court is authorized to order sentences to run consecutively for a defendant convicted of more than one criminal offense, if the court finds by a preponderance of evidence that the defendant:
 - Is a professional criminal who has knowingly devoted the defendant's life to criminal acts as a major source of livelihood;
 - Is an offender whose record of criminal activity is extensive;
 - Is a dangerous mentally abnormal person whose criminal conduct has been characterized by a pattern of repetitive or compulsive behavior with heedless indifference to consequences;
 - Is a dangerous offender whose behavior indicates little or no regard for human life and no hesitation about committing a crime in which the risk to human life is high;
 - Is convicted of two or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant's undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims;
 - Is sentenced for an offense committed while on probation;
 - Is sentenced for criminal contempt; or

- Is convicted of two or more offenses involving sexual exploitation of an elderly or vulnerable adult with consideration of the aggravating circumstances arising from the relationship between the defendant and victim, the nature and scope of the sexual acts, and the extent of the physical and mental damage to the victim.
- The proposed language expands the criteria for when a court is authorized to order sentences to run consecutively for a defendant convicted incarcerated at the time of the offense and is convicted of one the following offenses:
 - Aggravated assault;
 - First degree murder;
 - Second degree murder;
 - Voluntary manslaughter;
 - Criminally negligent homicide;
 - Aggravated rape;
 - Rape;
 - Aggravated sexual battery;
 - Sexual battery; or
 - Indecent exposure.
- Trial judges are authorized to increase the length of a sentence within the appropriate range depending on the presence of enhancing factors.
- It is reasonably assumed there are currently offenders who have committed one of the outlined offenses while incarcerated, pursuant to the proposed legislation, that meet the criteria set out in Tenn. Code Ann. 40-35-115.
- It is further assumed most offenders who commit one of the outlined 10 offenses while incarcerated are repeat, violent offenders who are currently serving time more than three years incarcerated.
- Pursuant to Tenn. Code Ann. § 9-4-210, this analysis estimates the highest cost for admissions in the next three years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding three years in length surpass the window of this analysis and will not significantly impact incarceration costs.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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